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CORRESPONDENCE.

MECHANIC'S LIEN LAW.

Editor Virginia Law Register :

In 2 Va. Law Register, 489-515, is a very full and interesting discussion of the mechanic's lien law, by Mr. N. C. Manson, Jr. There is one feature of our mechanic's lien law, and a very peculiar one, which is not touched upon by the article. Under sec. 2476 of the Code as amended (last amendment being found on page 487 of the Acts of 1897-8), the persons entitled to the benefit of the lien, as provided by the preceding section, have sixty days "*from the time such building, structure, or railroad is completed or the work thereon otherwise terminated,*" within which to file their liens. Sec. 2481 of the Code, as amended (last amendment being found on page 576 of the Acts of 1893-4), provides that no suit shall be brought to enforce any such lien "*after six months from the time when the whole amount covered by such lien has become payable.*"

Suppose A, a lumber dealer, furnishes B, to be used in the construction of his house, a bill of lumber January 1, to be paid for March 1. On October 1 B's building is completed. A could file his lien at any time before the expiration of sixty days from October 1, that is, say, up to December 1. And yet, under sec. 2481, his right to enforce the lien expired September 1—that is, six months after the debt was due. Thus we have it that a man has a right to file a mechanic's lien, valid under one section of the Code, but which another section of the Code precludes him from enforcing!

Would it not be well to suggest to the next legislature an amendment of sec. 2481, prescribing a limitation for enforcing the lien, of two, four, or six months, or whatever time may be thought proper, after the filing of the lien, instead of six months from the time of the maturity of the debt?

THOMAS R. KEITH.

Fairfax, Va.

COUNTY JUDGES.

Editor Virginia Law Register :

As a county court judge, permit me to enter a protest to the condemnation of the county court judges, by Mr. Harrison, of the Danville bar, in his address on "Suggested Changes in our Judicial System," made before the State Bar Association, and published in your October issue. It is true that he says "I cannot be thought, in attacking the system, to intend any personal reflection upon the incumbent judges," and he makes honorable mention of some of his neighboring county judges. In fact I do not well see how he could have again greeted these gentlemen on his return home had he not apologized, in advance, to them.

Taking the courts in turn, he says that our Supreme Court "is all we can wish," except that they "should be gowned." Well, this is very complimentary."

As to the circuit courts, he "sees nothing to complain of." That, too, is quite satisfying to our brothers of the circuit bench.

But now listen: The county courts "have proven to be, from every point of

view, the most expensive, inefficient, and unsatisfactory tribunals ever devised. These courts should be abolished. There should be in every county a monthly court, but of more consequence. . . . It should be presided over by a judge who commands the respect of the people and deserves the confidence of the bar. The poor man, with his small case, is entitled to receive as good law at the bar of justice as the rich man with his great case. We know what travesties upon justice we meet with in the magistrate's courts, and we often find little better in the county courts. These latter should be presided over by competent judges. . . . I would arrange the counties into districts, and secure to each county a monthly court, to be held by a competent judge, whose salary shall not be less than \$2,000. These salaries would command competent lawyers as judges, and thus the poorest people, in their petty matters, would be given the administration of justice by men of ability and character and of learning."

Of what avail is this disclaimer of intent, in the face of these remarks? Or, how can a court commit "travesties upon justice" and not involve the judge? It may be that our friend wanted to tell us a disagreeable thing in a nice way, and that speaks well for his feelings, but we venture to say that the county judges do not desire any "senatorial courtesy" in this matter. That article in the hands of a stranger, or copied into the journals of our sister States, would surely impress them with the belief that Virginia had most unworthy county judges and courts, and well-nigh a reproach to the State. Our acquaintance with these judges has led us to regard them as "competent judges," and certainly among the most faithful of the public servants. They, to adopt the standard our friend has laid down, are surely "competent lawyers," men of "ability," having a fair "character," and some "learning," and we believe they "command the respect of the people and deserve the confidence of the bar." Do not understand me to oppose any improvement of our judicial system. We owe this to our State and to the judiciary, regardless of all courts and judges alike. But, in the meantime, let us render unto Cæsar the things that are Cæsar's.

As a body of men, we venture to say that these self-same judges will compare favorably with any in the State, and that in their hands "the poor man, with his small case," will "receive as good law at the bar of justice as the rich man with his great case" "in the higher courts." At any rate, if they cannot devise a better plan of improvement than our friend we will be disposed to admit that their "competency" may be called in question.

A comparison of the criminal cases carried to the Supreme Court shows that more cases were reversed when they were tried in the "higher," or circuit courts, than when they were tried in the county courts. Our criminal laws, now exclusively in the county courts, are fairly well administered. By comparison, we are less criticised than many of our sister States, where these criminal matters are tried in the "higher courts." We have not tested the civil cases appealed from the county courts, but believe they will show a favorable comparison with the "higher courts." It is said that our old county courts were models of their kind, "commanding the respect of the people and deserving the confidence of the bar," yet we venture to say that few would now prefer to go back to that system. The county judges, having to deal with many local and public matters, are frequently subjected to much unjust criticism, while their more fortunate brethren of the "higher courts" sit far removed. We have always thought that the character of

duties imposed on the county courts were more trying to the judges than in the circuit courts. What is more trying or more likely to create criticism than the trial of criminal cases, where the feelings of counsel, clients, and the public often run high? or the trial of one of these self-same "small cases," in which such "good law" is necessary, where the parties lose sight of the amount and litigate over their animosity? or the hearing of a road case, in which the whole community have each other by the ears, and the losing side would often like to get the judge by the same? or the supervision of the multitudinous accounts of the Commonwealth, where officials so often feel that they have rendered services for little pay, and even that is cut down? or the agitation consequent on the failure of some public official? or making appointments to offices, among a number of applicants? And so with many other things not necessary to mention.

Again, how have these county judges been so expensive? It would take four average salaries to pay one of two thousand dollars. How does our friend hope to save much by this plan? The criminal costs of the State are not fixed by the county judges. The law does this; and these accounts pass through the county courts simply to see that only legal fees and actual services are paid. These accounts are a source of great vexation to the judges, and the probability is that the "higher" the court the less likely it is to give close attention to these minute details. The judges cannot reduce these allowances. Only the legislature can do this. There may be made a great saving in the public expenses, probably in both State and county matters, as to which we are not now writing, but let no one deceive himself that the county judges are responsible for this expense. Enquire into the matter and you will find that the many public matters, both State and county, have been about as faithfully looked after by the county judges as any "higher court" is likely to do, although presided over by "men of ability and character and of learning."

CALLOWAY BROWN.

Bedford City, Va.